

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| APPLICATION OF SOUTHERN OHIO TELEPHONE) | |
| COMPANY TO CONSTRUCT A CELL SITE IN) | CASE NO. 91-150 |
| CAMPBELL COUNTY, KENTUCKY) | |

O R D E R

On May 16, 1991, Southern Ohio Telephone Company, d/b/a Cellular One ("SOTCo"), filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications tower in the Cincinnati, Ohio, Metropolitan Statistical Area ("Cincinnati MSA"). The Cincinnati MSA includes Boone, Campbell, and Kenton counties in Kentucky.

The Commission previously granted SOTCo authority to provide cellular services in the Cincinnati MSA in Case No. 9462¹ by order dated January 9, 1986. The instant application proposes a new cell site consisting of a 285 foot self-supporting antenna tower to be located at 25A Lower Eight Mile Road in Melbourne, Kentucky.

¹ Case No. 9462, The Application of the Southern Ohio Telephone Company for the Issuance of a Certificate of Public Convenience and Necessity to Provide a New Domestic Public Cellular Radio Telecommunications Service to the Public in the Greater Cincinnati Metropolitan Area Including All or Parts of Butler, Clermont, Hamilton, and Warren Counties in Ohio; Boone, Campbell, Gallatin, Grant, Kenton, Ohio, and Pendleton Counties in Kentucky; and Dearborn, Franklin and Switzerland Counties in Indiana.

On June 13, 1991, the Commission ordered SOTCo to file additional information. On June 18, 1991, SOTCo filed its response. A hearing was held on August 8, 1991 at the Commission's offices in Frankfort, Kentucky.

SOTCo has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed Melbourne cell tower. Based upon the application, the tower and foundation appear to meet the criteria of the Building Officials and Code Administrators International, Inc. (BOCA) National Building Code, with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the proposed cell site construction is exempt from local zoning ordinances though SOTCo has notified the Campbell County Municipal Planning and Zoning Commission. SOTCo has filed applications with the Federal Communications Commission ("FCC"), Federal Aviation Administration ("FAA"), and the Kentucky Airport and Zoning Commission ("KAZC") seeking approval for the operation and construction of the proposed cell site. The FCC, FAA, and KAZC have approved the applications.

SOTCo has notified each property owner and each resident within 500 feet of the proposed Melbourne cell site that: (1) an application to construct a cellular tower was pending at the Commission; (2) comments on the proposed cell site were invited; and (3) intervention could be requested by contacting the Commission. Intervention was requested by and granted to Mr. and Mrs. Larry Twehues, owners of property near the cell site.

The intervenors questioned the aesthetics of the proposed facilities and the diminution of property value. In testimony, the intervenors claimed that construction of the cell site at the proposed location would interfere with their view of the surrounding countryside and affect future plans for the development of the property in close proximity to the cell site. The intervenors testified that the proposed cell site is approximately 350-400 feet from their house.² The Twehues stated that they are not opposed to the tower, but opposed to its location and are worrying about the value of their property.³ However, the intervenors admitted that the tower would be visible from their property even if the location was altered.⁴

SOTCo presented evidence that property with a view of a cellular tower does not necessarily sustain a diminution in value. Houses constructed on property adjoining another SOTCo tower in the same general area are worth \$200,000.⁵ SOTCo offered testimony showing that the proposed cell site was the most suitable with regard to accessibility, engineering criteria, and landowner consent.⁶

Based on a review of the record and being sufficiently advised, the Commission hereby finds that there is no credible

2 Transcript of Evidence ("T.E.") at 62.

3 T.E. at 64.

4 T.E. at 70.

5 T.E. at 72.


6 T.E. at 81.

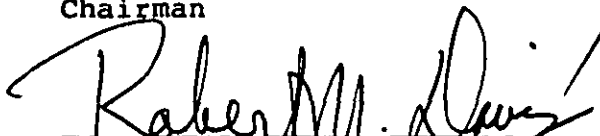
evidence to demonstrate that the cellular tower will have any adverse impact on property value. Due to the height of the tower there will, of necessity, be some impact on aesthetics. Given the terrain upon which the tower is proposed to be located, there appears to be no suitable alternate location on this property that would eliminate, or minimize further, this effect on aesthetics.

IT IS THEREFORE ORDERED that a Certificate of Public Convenience and Necessity to construct and operate a 285 foot cellular telecommunications antenna tower at 25A Lower Eight Mile Road, Melbourne, Kentucky, be and it hereby is granted to SOTCo.

Done at Frankfort, Kentucky, this 6th day of December, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

Commissioner

ATTEST:


Executive Director